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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Create a Consistent Regulatory Framework for the Guidance, Planning, and Evaluation of Integrated Distributed Energy Resources	RULEMAKING 14-10-003 (Filed October 2, 2014)

Re: CPUC Proceeding R14-10-003

COMMENTS OF KAREY CHRIST-JANER ON COMPETITIVE SOLICITATION FRAMEWORK WORKING GROUP FINAL REPORT

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Respectfully submitted this 22nd day of August, 2016.

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INTRODUCTION

Ms. Christ-Janer respectfully submits these Opening Comments on the Final Report of the Competitive Solicitation Framework Working Group. As an active participant in three of the seven sub-groups (Double-Counting, Customer Outreach, Loading Order) and co-leader of the Non-IOU LSE sub-group ("NIOU-LSE group" hereafter), Ms. Christ-Janer provided input directly and therefore limits these Opening Comments to further thoughts on the role of CCAs in competitive solicitations and direct impacts on wider market structures. This is a difficult subject – however, a lack of market optimization in this area could prove detrimental to the fulfillment of state goals. It is important that the Commission be informed of the differing points of view regarding the direction of enabling partnerships as described in the Final Report. Ms. Christ-Janer reserves the right to provide additional thoughts on other sub-groups in reply comments.

DISCUSSION

Consideration in the NIOU-LSE group itself as well as the wider CSFWG participants proved akin to opening a can of worms, with each set of issues seeming to uncover yet another set of difficult issues. For example, while NIOU-LSE group participants initially reached consensus that CCAs could act as market participants for bidding into DER RFOs, concern was expressed by a party attending Commissioner Florio's special meeting (which had been called to attempt various CSFWG issue resolution) that CCAs who act as Program Administrators (PA) currently could obtain commercially protected and sensitive third-party pricing information, creating an unfair competitive advantage when bidding into IOU RFOs for IDER due to potential lack of internal firewalls between those evaluating CCA-led RFO bids and those preparing the bid into an IOU's DER RFO.

A solution was suggested that CCAs might need to *choose* between DER bidding or acting as PA. This might seem to be an easy answer. However, CCA Marin Clean Energy (MCE) took the position that under Public Utilities Code Section 366.2(a)(5), CCAs are free to conduct

any procurement they wish, regardless of competitive concerns.[1] However, a review of that section of the code refers to generation procurements on behalf of its customers, "except where other arrangements are expressly authorized by statute." Here, this proceeding was opened under Public Utilities Code Sections 454.5(b) and 701.1(a). The authority for this proceeding was designed to incorporate energy efficiency and demand reduction needs, and "to minimize the cost to society of the reliable energy services that are provided by natural gas and electricity…" Because the goal of this proceeding is to institute policies and procedures to effectuate distribution system optimization, that is distinguishably different than generation procurement in the context of Section 366.2(a)(5), and at the least is an "other arrangement" referenced in that statute.[2] As a result, MCE's argument that Section 366.2(a)(5) allows CCAs to participate in RFOs regardless of competitive concerns does not control. While CCAs can and should play an important part in DER proliferation, and their concerns should be incorporated into this proceeding, other statutory directives bear on the issues discussed in the working groups. For these reasons, Ms. Christ-Janer believes that partnerships with IOUs are key to CCAs' role, and the Commission should protect entities that submit confidential pricing to CCAs from having CCAs then compete with such entities in subsequent RFOs for IDER.

If CCAs can be both market participants in an RFO – yet also act unfettered as PA (for energy efficiency or other DER programs, even IDER programs with the intention addressing grid needs) – a question begs to be asked: What is to prevent an IOU from bidding into its own RFO, even if through its own "firewalled" affiliates?

This is just one example of the many thorny issues outlined in the CSFWG Final Report (and the relevant Appendix 7). Yet, a number of participants in the NIOU-LSE group suggested that many of these issues fall out of scope of the competitive solicitation framework and should be addressed in other proceedings, a suggestion with which Ms. Christ-Janer disagrees.

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[1] (5) A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.

[2] See also, Public Utilities Code Section 769, which has led to the Distribution Resources Plan rulemaking proceeding.

A recent Assigned Commissioner's Ruling on Track 3 issues in the Distributed Resources Planning (DRP) proceeding R.14-08-013 pages 3 - 5 – the "sister proceeding" to this IDER docket – was filed on August 9th with a request for comment on its proposals to consolidate and clarify where certain issues should be addressed procedurally along with suggestions that certain items would be removed from the scope of Track 3 of the DRP and moved for consideration elsewhere. These issues include "the role of community choice aggregators (CCAs) and electric service providers and the utilities' responsibilities for competitive neutrality with respect to other wholesale electricity providers" as well as utility role and business models. In that filing, **President Picker suggests that the role of CCAs will be addressed precisely in this IDER Competitive Solicitation Framework Working Group (CSFWG) context,** and further clarifies that utility business models be explored in the IDER proceeding as well.

Moreover, in wider CSFWG meetings a question was posed: What does the "I" in Integrated Distributed Energy Resources actually mean? Ms. Christ-Janer submits as a reminder that the definition of "IDER" as stated in the September 22, 2015 page 18 Decision Adopting an Expanded Scope, a Definition, and a Goal for the Integration of Distributed Energy Resources was established as follows:

> A regulatory framework, developed by the Commission, to enable utility customers to most effectively and efficiently choose from an array of distributed energy resources taking into consideration the impact and interaction of such resources on the grid as a whole, individual customer's energy usage, and the environment.

IDER as an over-arching "regulatory framework" functions as an umbrella over the various coordinated proceedings, such as NEM, EE, DR, ES, and more: from "the grid as a whole" down to an "individual customer's usage." To suggest, as some parties have, that an issue so fundamental as to which LSEs will serve which roles simply *cannot* be shoveled off into the EE proceeding (for example) just because similar issues are arising there. Indeed, the roles of CCAs will arise over and over again in DER-related proceedings until the Commission establishes guidance for optimization.

For these reasons, Ms. Christ-Janer offered "Enhanced Proposal 2" for the sub-team 7 addressing potential market challenges (see pp. 56-58 of the Working Group Final Report). Further, the first definitive, customer-facing action in Phase 1 of this proceeding will apparently involve pilot programs in IOU territories, which naturally carry the potential for implementation in CCA territory as well, since CCA customers remain distribution customers of the IOUs. As such, the LSEs' roles must initially be established in this competitive solicitation context. Ms. Christ-Janer provides examples, below, to suggest why this issue is ripe for consideration by the Commission now.

The *IDER-coordinated* proceedings clearly include the ongoing NEM proceeding (R.14-07-012), which acts as a cornerstone relating to customer choice and solar distributed generation. Coincident with IDER consideration of CCA-related issues, presently the NEM proceeding is considering issues relating to the implementation of AB 693 for developing the Multi-Family Affordable Housing Solar Roofs Program (MAHSR program, which includes an energy efficiency element), and AB 327's mandate to develop alternatives to the NEM successor tariff for disadvantaged communities. The issues of CCA participation and/or CCAs' roles as PAs for the MAHSR program are squarely in focus there, and parties Comments and Replies have been filed directly addressing these issues.

Without any intention of "re-litigating" here, Ms. Christ-Janer simply highlights certain filed comments below as illustrative of certain CCA-related issues which were discussed in the NIOU-LSE group and highlighted in the CSFWG Final Report documents. Some of the comments relate to challenges when multiple-types of entities act as PAs for the same program. Some relate to direct competition or complexities relating to "control" issues. It is evident that the market at large is demonstrating a high level of interest in Integrated DER solutions, but it remains an open question as to who may participate, which entities will act as PAs, and what programs or elements may be mixed-and matched between entities. To illustrate:

First, from MCE's Opening Comments on the ALJ's Ruling Seeking Proposals and Comments on Implementation of AB 693, filed August 4^{h}, 2016 in R.14-07-002, at page 4:

> [A]s the customers' default generation services provider, CCAs should be able to administer the Program, particularly because the adoption of rooftop solar will impact CCAs' procurement practices. **It is puzzling that AB 693 (2015) indicated the Commission was required to evaluate eligibility of CCA customers in a program designed to affect procurement, which is solely within the jurisdiction of a CCA's governing board of local elected representatives according to Public Utilities Code Section 366.2(a)(5)…**
>
> ...CCAs have demonstrated their abilities to effectively administer Distributed Energy Resource ("DER") programs, including NEM and EE….**CCAs will be able to integrate the Program with other offerings, such as financial incentives, NEM tariffs, and EE measures…CCAs can also package the Program with other GHG reduction measures to maximize climate change mitigation potential.**

Second, from Greenlining Institute's Opening Comments on the ALJ's Ruling Seeking Proposals and Comments on Implementation of AB 693, filed August 4th, 2016 in R.14-07-002 page 3:

> **A property owner who has tenants served by both the IOU and a CCA might face a more complex application and implementation process, but should not be prohibited from participating.**

Third, from SCE's Reply Comments on the ALJ's Ruling Seeking Proposals and Comments on Implementation of AB 693, filed August 16th, 2016 in R.14-07-002, at page 4:

> **[A]s the CCAs consistently point out when it serves them to do so, the Commission generally lacks jurisdiction over CCAs. Such authority is necessary to enable the Commission to discharge its duty to ensure that programs funds are spent in the public interest.** Absent statutory authority to regulate CCAs in administering program funds, the Commission cannot divert program funds to non-jurisdictional entities for program administration.

Fourth, from Everyday Energy's Reply Comments on the ALJ's Ruling Seeking Proposals and Comments on Implementation of AB 693, filed August 16th, 2016 in R.14-07-002, at pages 20-23:

> **…The LIWP Program is not run by one administrator.** The LIWP Program is run by AEA, CHPC, and GRID Alternatives. **To adopt this structure would mean rather than just dealing with the IOU, we would now be dealing with three different**

stakeholders in addition to the IOU to get a rebate and solar interconnection. This complicated structure is burdensome and clumsy for affordable housing owners and solar companies delivering the service…

Everyday Energy has experience with two projects that received both MASH funding and LIWP funding. Everyday Energy gathered all of the host customers data to prefect a MASH rebate, which includes utility bills, load information, as built drawings, meter numbers, VNM allocations, etc. **When the LIWP program opened, it became clear that it was three headed administration model** that refused to directly work with Everyday Energy to provide information it had already received. Instead, it required our clients to re-issue the same information it had already provided to Everyday Energy and the MASH Program administrator to the LIWP administrators. The way the process worked for the projects Everyday Energy was involved in was that once we filled out an interest form and it was confirmed that the project was located in an eligible DAC, the process would start. They required the affordable housing provider to be the primary point of contact for communication and data transfer and justified the requirement as an administrative outreach activity. The way it worked is there was an intake interview conducted by CHPC. This interview was not just about the subject property but included the attempt to do a full portfolio review to see where CHPC could provide its services to implement energy efficiency and finance consulting. Once through this gauntlet, the property needed to be visited by AEA and their HERS rater to do an assessment for energy efficiency that is also rebated separately through the LIWP Program. Then, the parties get back together and go over the recommendations for energy efficiency. Then, AEA or another HERS rater can be contracted to implement the rebated energy efficiency implementation. Once this is finished, then the solar PV size is scrutinized to make sure it is appropriate by GRID Alternatives. Then, the solar provider is required to provide the cost to provide solar and the sources of funds. The cost and design is reviewed by GRID Alternatives and if they deem the cost be reasonable, then a rebate may be reserved. However, GRID is allowed to provide a competing bid after it has gone through its technical review of the solar project. **It is important to note that GRID also competes for multifamily solar installations and is now in a position to obtain competitive market data in a market where it is an active participant. This process is fraught with inefficiency and administered by parties that also deliver energy efficiency services, financial consulting, and solar services to the multifamily affordable housing market** for a fee. It is important to note that the multifamily solar market is a competitive market where MASH and NSHP funds have been combined with private investment to deliver solar to multifamily affordable housing. It is quite different than single family affordable housing and energy efficiency programs and has a much more successful track record as far as market participants and program subscription as well as attracting private markets to establish a real market that can take advantage of the scale that has been achieved in the solar business…

…The LIWP solar reservation and incentive process is best analogized to timeshare vacation sales. The housing sponsor is being offered an incentive to fill a

> funding gap for solar on their property, but in order to receive it, they need to go through a portfolio wide analysis to see where the energy efficiency consultants can help them implement additional measures and then receive another proposal from a solar installer who is also part of the rebate process. **This practice has the possibility of chilling participation…**
>
> ...Specifically, **the IOUs are regulated by the CPUC and the CPUC can order them to act with the authority to punish if they do not. The Commission regulates the IOUs and has primary jurisdiction over them. If a statewide administrator was created, it is not regulated by the Commission and its duties would be governed by contract.** To the extent there was a disagreement with respect to program administration, the remedy would be under contract law and not the administrative rules of the Commission.

CONCLUSION

Ms. Christ-Janer submits that the Commission should develop guidance relating to roles of CCAs to help glean the unique strengths of each type of LSE in order to optimize DER markets while minimizing inefficiency, waste and lack of transparency between entities, and further that this "umbrella" IDER proceeding is precisely where that strategy should emerge.

Respectfully submitted this 22nd day of August, 2016.

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